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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------|-------------|----------------------|---------------------|------------------|
| 09/858,188 | 05/15/2001 | Helen M. Doherty | 113692.34 | 9327 |
| 41068 7590 06/09/2004 | | | | |
| BUCHANAN INGERSOLL PC | | | | |
| 1835 MARKET STREET, 14TH FLOOR | | | | |
| PHILADELPHIA, PA 19103-2985 | | | | |
| EXAMINER | | | | |
| JOHNSON, JERRY D | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1764 | | | | |

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/858,188

Applicant(s)

DOHERTY ET AL.

Examiner

Jerry D. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-11, 13 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Newly submitted claims 1-11, 13 and 15 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 1-11, 13 and 15, as amended, are directed to a method for producing a transportation fuel whereas the originally presented claims were directed to a fuel composition.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-11, 13 and 15 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Townsend et al.

Townsend et al., United States Statutory Invention Registration H1305, teach a method of reformulating gasoline to reduce both hydrocarbon mass and reactivity of vehicle exhaust emissions and simultaneously reduce exhaust emissions of toxics, carbon monoxide and nitrogen oxides (column 1, line 65 to column 2, line 2). The gasoline reformulation method comprises (a) reducing the concentration of aromatic compounds in the gasoline; (b) reducing the concentration of olefinic compounds in the gasoline; (c) reducing the concentration of sulfur or sulfur-containing compounds in the gasoline; (d) reducing the 90 percent distillation temperature of the gasoline; and (e) adding an oxygenate to the gasoline (column 3, lines 20-27). It is preferred that the concentration of olefinic compounds is reduced in the reformulated gasoline in an amount ranging from about 10 to about 70 percent of the olefins in the unreformulated

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gasoline, and in another variation, olefinic compounds' concentration is more preferably reduced in the range of about 40 to about 60 percent (column 3, lines 37-43). It is preferred that the concentration of sulfur and sulfur-containing compounds is reduced in the reformulated gasoline in an amount ranging from about 65 to 90 percent in the unreformulated gasoline, and in another variation, it is more preferred to reduce the concentration of sulfur in the reformulated gasoline to an amount not exceeding 100 parts per million by weight (column 3, lines 43-51). The 90 percent distillation temperature of the gasoline is reduced in an amount ranging from about 10 percent to about 30 percent, and more preferably, the 90 percent temperature is reduced to a range from about 270°F. to about 310°F. (column 3, lines 61-65). An oxygenate is added in an amount to provide the gasoline, as reformulate, with an oxygen concentration in the range of about 1 to about 4 percent by weight oxygen, and more preferably in the range of about 2 to about 3 percent by weight oxygen (column 4, lines 4-9). Oxygenate compounds specific taught include, *inter alia*, the instantly claimed oxygenates (column 4, lines 4-26). In one variation, the reformulated gasoline has a 50 percent distillation temperature in the range of about 180°F. to about 210°F. (column 7, lines 31-40). The octane number is in the range of about 86 to about 94 (column 7, lines 58-62). While Townsend et al. differ from the instant claims in not disclosing an example of a fuel composition having all of the instantly claimed properties, it would have been obvious to one having ordinary skill in the art at the time the invention was made to follow the above teachings and arrive at the instantly claimed fuel compositions.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification fails to teach an oxygenated fuel having an octane rating of "about 87 to about 94".

Applicant's arguments with respect to claims 16-19 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

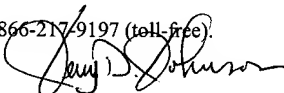
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry D. Johnson whose telephone number is (571) 272-1448. The examiner can normally be reached on 6:00-3:30, M-F, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jerry D. Johnson
Primary Examiner
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